

The Leesburg Planning Commission met on Thursday, September 15, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Christopher Murphy, Brian Boucher, Bill Ackman, Annie McDonald and Linda DeFranco

CALL TO ORDER

The meeting was called to order at 7:00pm by Chairman Wright

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Chairman Wright
Commissioner Bangert
Commissioner Barnes
Commissioner Burk
Commissioner Kalriess
Commissioner Moore
Mayor Umstattd

Commissioner Hoovler was absent.

ADOPTION OF AGENDA

Commissioner Barnes moved to adopt the agenda as presented.

Motion: Barnes
Second: Kalriess
Carried: 5-0-2

Commissioner Moore was not present for this vote.

APPROVAL OF MINUTES

None

CHAIRMAN'S STATEMENT

Chairman Wright reviewed tonight's agenda, setting out the time limits for the petitioner's session and the public hearing.

PETITIONERS

None

PUBLIC HEARING

TLSE-2005-0002, B&M Motorcars. Special exception to permit vehicle sales in the B-3 Zoning District.

Robert Sevila, representative for the applicant, came forward and briefly discussed the traffic impact that was anticipated for this use. He then deferred to staff to present the staff report.

Christopher Murphy, AICP, Sr. Planner came forward and stated that vehicle sales in the B-3 district required a special exception approval per the Zoning Ordinance 6.5.2. He gave a brief background of prior special exceptions for this piece of property that were brought before the Council in 1994, 1999, 2002 and 2004. The most recent applications were denied based on traffic impact in the area. The Town Plan calls for infill that will transition between the predominantly automobile uses and residential uses of this quadrant. The buffering required and the setback recommended limit the amount of usable space on this property. Additionally, a power distribution line runs beneath one of the required buffer areas, further limiting the required landscaping. Further, the applicant seeks a waiver from the availability of off-street loading space. Lastly the transportation issues were once again of concern. The traffic study prepared by the applicant differed from the study by staff, which indicates that there should be a right turn lane onto Edwards Ferry Road near Sheetz, relocation of traffic signal mast arms, signal modifications and striping and signage. Bill Ackman of the Town's engineering department, came forward to reiterate the need for the lane addition and other traffic improvements in the area. Staff recommends denial of this special exception.

Mr. Sevila came forward to stress the compatibility of this application to the existing uses on surrounding properties emphasizing this is one of the lowest impact uses that could be put on this site. Banyan Cove is scheduled to be a multifamily development. The staff indicates single family compatibility because of an existing house, which will be removed once the Banyan Cove application moves forward. With regard to the traffic study, asking the applicant to make the proposed improvements is unrealistic. This use is not a traffic generator. There was some question on the level designation by the studies run on the traffic. The applicant feels that all requirements are being met, that the study prepared by PHRA was adequate, and that based on this study, the improvements to the intersection are not required. They have also worked to make the landscape buffers in the area work, despite the restrictions that arose because of the Virginia Power easements.

Mike Glickman of Patton, Harris & Rust Associates again discussed the numbers that were used for the traffic study. He mentioned that the Town's transportation engineer had reviewed the study and agreed with its results. Chairman Wright asked about the street widths used to run the reports. Mr. Glickman said they readdressed the study with the staff's widths.

Mr. Sevila stated while numbers are different, the results remain the same.

Chris Murphy came forward to clarify the compatibility table which is a grade of B. Referring back to the 1997 town plan, the single family versus the multi family use of adjacent property grades this use as a D. Chairman Wright asked if this was only stated in the town plan, or is it also in the ordinance? Only in the town plan. Mr. Murphy went on to state that the most compatible use, and the by right use of this property is office. With regard to traffic and the study prepared for the Tires Plus use, it was noted that the traffic volume decreased from 2001 to 2004/05. Bill Ackman said the main point brought up was a level C in an ideal situation, but did not take into account the Sheetz entrance so close to Edwards Ferry Road. These close entrances reduce the level of the intersection.

Robert Sevila said the traffic does meet level C. Also, addressing the lack of a space for a 50' tractor trailer said the inventory is driven in or brought in by single trailers. No one uses a 50' trailer. As a result, the applicant approached another owner with regard to using their space should the need ever arise to use a 50' rig.

There were no speakers from the public.

Chairman Wright then opened the floor for Commissioner discussion. He also took a minute to introduce Annie McDonald, the town's new Preservation Planner.

Commissioner Barnes thanked Mr. Murphy, and commented that there was no dumpster site on the proposed application. He then asked Mr. Boucher to relay his experience in the used car business. He asked Mr. Sevila what type of volume B&M Motors had per month. The response was they sell on the average of 30 cars per month, each car generating about 5 visitors to the lot. Their operating hours are 9am to 7pm and there are no external speakers for paging purposes. It is the desire of the applicant to keep the business in town. The Loudoun Bank will soon be building on the applicant's current site so it is essential that a site be found for relocation. Mr. Barnes then asked if the applicant could meet any of the contingencies. Mr. Murphy replied that the staff report outlined all of the concerns that were outstanding. Mr. Barnes asked how difficult it would be for the applicant to provide the intersection improvements. Mr. Sevila replied that the costs would be prohibitive for this type of business.

Commissioner Kalriess asked if this facility was for service or just for the prep of the cars to be sold. The applicant responded that basically there were two prep bays and two detailing bays, and added that there will be no retail service allowed at the site. What is the status of the land next to this site, has it been sold? Chris Murphy said that this has not yet been approved, but the plans are in the office. Mr. Kalriess asked what the difference was between a B/D designation for multi family dwelling. There was some further discussion on the compatibility table that is part of the 1997 Town Plan with regard to building heights in the surrounding areas.

Commissioner Kalriess asked what the original submittal date was for this application. Mr. Murphy responded that it was February 16, 2005 with the acceptance date being March 15, 2005. Mr. Kalriess went on to ask about the cross parking easement with

relation to the tractor trailers. Mr. Boucher responded that if this can be agreed upon, then it is an acceptable practice. Mr. Kalriess feels that this use would generate the lowest level of traffic. He is concerned about the compatibility of the application, why were the architectural drawings withdrawn? Beck Dickerson responded that they just weren't a part of the resubmission. Basically Mr. Kalriess asked that a) this building blend into the neighborhood; b) the traffic use is light; and c) he needs to see the architectural drawings, lighting scheme, elevations, etc. He would need to see all of these prior to approval.

Mayor Umstattd had no questions but commented that she agreed with prior comments and questions.

Commissioner Burk said his first concern is regarding the buffer reduction on the western side. Beck Dickerson said they will look at this area in more detail. The Virginia Power easement did restrict the planting area, but he feels that they are well within the safe area for the depicted plantings and that they realize that the design is important to the transition. Mr. Burk stressed the importance of the transitional area for Banyan Cove and for the existing apartment complex. Mr. Burk asked about the reference in the staff report with regard to the sidewalk construction. It references what Banyan Cove will do, but how can we assure that the remainder of the sidewalk will be constructed. Mr. Boucher said this will depend on infill development, and the town more than likely would make sure that it is completed.

Commissioner Bangert asked about a dumpster site, she did not see one. She inquired how many employees were employed, the response was 5. She asked what happens to the trash that is generated at the shop. Mr. Mulyar responded that they use curbside refuse collection. There were further questions regarding the number of vehicles on the lot at any given time, whether they had worked with economic development, or other sites where cars are sold regarding the relocation of this business. She then asked about the level C vs. level D in relationship to timing the lights. John Callo, Vice President of PHRA, referred to optimization timing, which optimizes all four approaches to the intersection which brings the level to C. The Bypass was not evaluated as part of the criteria for the traffic study. Essentially Mr. Callo said they are not required to do any further evaluation since they have such a small amount of impact traffic.

Commissioner Bangert asked whether the buffer zone sizes depended on the way the building was facing. Mr. Boucher said basically the building can face any direction and still have the same size buffer requirements. There was some further discussion on the minimum lot size under the new zoning ordinance.

Commissioner Moore asked the average price of the cars being sold. Mr. Mulyar said around \$10K-\$12K. Also the question arose about disposal of the spent oil and batteries. Mr. Mulyar stated that they were disposed of properly.

Commissioner Bangert asked about tire changing with relation to the new noise ordinance. Mr. Boucher said the ordinance addresses stationary noise, not occasional noise.

Chairman Wright asked about the elevation drawings, and why they weren't part of the information. Mr. Murphy responded that they were included with the second submission, but there was some miscommunication regarding the fact that they were not included at this time. There was some discussion on the paved area surrounding the building and its relation to the landscape plan and the number of cars that will be parked there. There seems to be an area in the rear that looks too small to be functional for parking. Mr. Mulyar said that on a sales lot the cars are parked very tightly. The business jockeys the cars, not customers. Mr. Wright asked if this application met the fire code with regard to ingress and egress. Mr. Dickerson said they had reviewed this and met all requirements. Mr. Wright then asked Mr. Sevila if they agreed with the conditions that were requested of the application. Mr. Sevila said they agreed with some, but not all. There was some further discussion on some of the conditions.

Commissioner Moore suggested that the concerns on the conditions be written up and given to Chris Murphy and Brian Boucher for review. Commissioner Bangert asked if the required notice had been sent to surrounding neighbors. Commissioner Kalriess had some concerns about the number of parking spaces and asked if more green space could be accommodated. Chairman Wright asked about the brick wall abutting to the wrought iron fence. He asked that they work with the Glenn to avoid creating a debris catching area between the two fences. Commissioner Bangert added that the gap between fences becomes a safety concern. She stressed that any type of aisle or alleyway between the fences should be avoided at all costs.

ZONING

None

SUBDIVISION AND LAND DEVELOPMENT

None

COMPREHENSIVE PLANNING

None

COUNCIL AND REPRESENTATIVE'S REPORT

None

STAFF AND COMMITTEE REPORTS

Chairman Wright reported that the UGA/JLMA Committee did not meet on September 14 as planned. He submitted a letter to the council regarding their wishlist of discussion points. At this point he turned the meeting over to Commissioner Kalriess.

Commissioner Kalriess discussed the information that was passed on to Council. Briefly he mentioned that the goal is to do joint planning in the adjacent areas to the town. There are further meetings scheduled to discuss their plan of action. Financial costs relative to any annexation and comparison of benefits is another important factor that needs to be addressed in future meetings. Chairman Wright reminded them that all decisions will come from the Council. They will make recommendations. The important recommendation will be what the boundary of the UGA/JLMA area is. They agree that the planning boundary should include the watershed along Sycolin and Goose Creek. This area includes the current town sewershed.

At this time the group convened around the table to look at the sewershed overlay map which delineates the borders under discussion. Chairman Wright said the question is where should the joint planning boundary be? We have an existing boundary and we have a more natural sewershed line.

Commissioner Moore asked if there was any plan to service the upper Sycolin Creek area. Commissioner Wright said if that area was brought into town, then we would provide sewer and water. What we would like to see is the ability to jointly plan anything that would come into the area. Mr. Moore suggested that they incorporate both the upper and lower areas into the JLMA, but not into the UGA.

Commissioner Bangert recapped an earlier agreement that would allow some homes to hook up to town water and sewer in the event of septic failure. She doesn't want to see anything dropped until they are aware of what is going to develop in the area. She wants to see the boundary go all the way to the creek. She is referring only to the JLMA boundary.

Commissioner Burk commented that they technically have no control in either area, but interprets this exercise as one to have more input into what could potentially happen in these areas. Since he is still unfamiliar with this concept, he would like to defer the decision to the other Planning Commission members.

Commissioner Kalriess sees a need for a JLMA line and a UGA line. He doesn't feel you can separate land use and economic considerations. The basis for his comment is a combination of transportation and economics. The transportation issue will affect the town directly, as will any economic development in the area. The line for the JLMA should go to the sewershed line which expands it somewhat past the Sycolin Creek line.

Commissioner Barnes asked what the benefit to the town would be when they expand water and sewer. Chairman Wright said the hope is that they will have the opportunity to control what goes on in the area through joint planning. Mr. Barnes said he was referring to monetary benefit for running the pipes. There was some further discussion on annexing pieces of land. Commissioner Kalriess explained the annexation process as it moves through the various state levels of approval.

Chairman Wright supports both the JLMA and the UGA, and discussed the boundaries. He feels that they need to set the JLMA boundary that they would like to see tonight. He is recommending incorporating the lower and upper Sycolin sewershed and maintaining the UGA boundary laid out in the town plan.

Commissioner Bangert moved to identify the boundary line for the JLMA as discussed. *Incorporate lower Sycolin sewershed and upper Sycolin sewershed where it extends beyond the UGA boundary and maintain the town plan UGA boundary so we don't retract anywhere. Maintain the current UGA boundary except where extended by the lower/upper Sycolin sewershed*

Commissioner Burk moved to amend the motion to contain a UGA area within the JLMA area that would be defined within the Town Plan.

The amendment was accepted as a friendly amendment by Commissioners Bangert and Kalriess

Motion: Bangert
Second: Kalriess
Carried: 6-0-1

Commissioner Kalriess said they need to strive to develop some data on where they feel the UGA should be prior to September 29th. The Council should be provided with some good sound reasons.

Chairman Wright asked if there was a need for the subcommittee to meet next week. Commissioner Kalriess said it would be important to meet to put some final thoughts together to present to Council. Commissioner Bangert would like to see the last study that was prepared regarding annexation. Chairman Wright asked if any cost studies had been prepared and also whether they should meet jointly with the Council or meet after they have met. It was decided that they plan to attend the meeting and provide notice that they might meet following the Council subcommittee.

OLD BUSINESS

Susan Swift gave some background on the consultant's preliminary plan for the Crescent District. She provided a matrix summarizing development potential with the uses they are proposing for the district. The matrix provides information on parcel size, proposed building height, and use. She asked the Commission to review the information and provide their input as quickly as possible.

Commissioner Kalriess requested FAR information. He feels this is a controlling tool for adjacent residential properties. Ms. Swift said parking will be a limiting factor in this particular area. Mr. Kalriess said he will review the information further and provide his input to the consultant.

Commissioner Bangert had some concerns about the residential being clustered in the center and the mixed use around the perimeter. Ms. Swift said this would buffer existing residential with new residential and the mixed use borders the major roads that are already currently commercial. Ms. Bangert also questioned the lack of open space on the north side of the trail. Ms. Swift said what is depicted is existing parkland and there is no existing parkland north of the trail. There was some further discussion on why the parkland at the Douglas School was not indicated on this map. Commissioner Burk commented that this would be a loss of green space if this is not maintained in its current use.

Commissioner Burk asked how this goes from a master plan to actually happening. Will this force anyone out? Susan Swift said this plan will provide a guide to those landowners who would like to redevelop their property. Mr. Burk questioned how this would play out with the new roads that are proposed. Ms. Swift said the roads are merely suggestions at this point and that no one will be land locked. Mr. Burk is very keen on cycling and pedestrian ways and asked that attention be paid to connectivity of this type of system.

Commissioner Moore reiterated the need for cycle and pedestrian ways both on and off the roadway systems.

Chairman Wright then brought forth discussion on the process improvements. Susan Swift asked them to review the information provided and stated that now we have the town attorney on staff to assist.

Commissioner Bangert asked if an application was ready for a vote, and at the last minute a modification is submitted, does staff review that before it gets to Council? Ms. Swift responded that this has been a concern. The applicant could get one chance to do this, but major changes can't be made. However, adequate time must be provided for staff comments, that means 30-days. This the delays the review of other applications. Ms. Swift added that if there are major changes then the applicant has to resubmit. How about if the public comment requested the major change, how would that play into the picture? Legally, if an application is presented at a public hearing in a certain way, and then has major changes, there needs to be another public hearing with the new modifications.

Susan Swift recapped the current process again and suggested some of the modification that she feels would help both the applicant and the rest of the staff/commission/council process. She stressed that flexibility needs to be an important part of the process.

Commissioner Burk said that he will send in his comments, and he would like to see compliance with the checklist. He feels that this will be a good control for both the applicants and the staff. The key seems to be what is a "major" change.

Commissioner Kalriess mentioned his special exception experience for a church. After many months and significant expense, the application was withdrawn. If they had known

the improvements requested sooner, they could have saved both time and money. He feels there is a better way to do it. Mr. Kalriess cited the process used in DC and feels that on major submissions the first step should be a review on land use and whether it is an appropriate use for that parcel. Incorporating a sunset period for revisions and speedier staff review were also mentioned. Basically Mr. Kalriess thinks that the number of times an application can be revised and submitted should be limited. The process should have staff review, go to the Commission, be revised and brought back to the commission. First there should be a pre-application meeting, then a review of the application and staff recommendation. Then the application goes to public hearing. The application would either be approved if it's on target, or it would go back for further revision. Mr. Kalriess feels that if the character of the application changes dramatically, then it should come back to the Commission level. He would like to limit the timeframe within which any further paperwork can be submitted.

Commissioner Bangert said if there is a hearing between submissions, it gives the applicant one more chance to comply with requirements and adjustments. She also would like to see a "deadline" date that is final and not moveable.

Commissioner Kalriess said the Arlington process is very good. They incorporate firm dates and he says the result is that the applicants put the effort into getting it right early in the process.

Chairman Wright asked about the application submission deadline. He would like comments from our attorneys on getting information on applications sooner, and consider any bylaw change on how the commission would deal with this information. With respect to rezoning, and special exceptions, the current process is that special exceptions are accepted only after zoning is approved. Susan Swift said this is being considered for change. Staff will rewrite the policy and submit to it commission for approval. Mr. Wright recommended a flowchart so that the logical sequence is laid out assuring conformity with the ordinance.

Commissioner Kalriess asked about complicated applications. He has a client that has a special exception, town plan amendment, and proffer amendment for one project. Kevin Wright said they are trying to streamline that process, not do them sequentially. Is this type of consideration handled in the preapplication conference? Ms. Swift responded for the most part, yes.

Chairman Wright said, as he understands it, there is the preapplication meeting, submission, staff comments, fix submission, staff response, second submission, goes to Planning Commission for public hearing, then further comments, third submission, and finally the vote. If there are major changes then the application is resubmitted. There is no activity between Planning Commission vote and the Town Council hearing. There was some further discussion on the process and where steps might be streamlined.

Commissioner Bangert commented that this could be more effective if the engineering portion is reviewed to assure that everything is in compliance.

Susan Swift said that the planners can pick up on everything required for initial acceptance without engineering review. Land use, design, etc. is what we are looking for.

NEW BUSINESS

None

ADJOURNMENT

The motion was made and seconded to adjourn at 11:08.

Presented by:

Approved by:

Linda DeFranco, Commission Clerk

Kevin Wright, Chairman